IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 370 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SIHOR NAGARPALIKA - Applicant(s)
Versus
SUB DIVISIONAL MAGISTRATE & 4 - Respondent(s)

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Appearance :

MR MANISH R BHATT for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MR NIGAM R SHUKLA for Respondent(s) : 2,
MR YF MEHTA for Respondent(s) : 3 - 4.
PUBLIC PROSECUTOR for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/10/2007

ORAL JUDGMENT

1. In the present petition, the petitioner Sihor Nagarpalika has challenged an order dated

7.2.1999 passed by learned Sub-Divisional Magistrate, Bhavnagar as upheld by an order dated 29.3.2000 passed by learned Joint District Judge, Bhavnagar in Criminal Revision Application No.47/1999.

2. The entire issue is with respect to a urinal constructed and maintained by the petitioner Nagarpalika. Respondent no.2 having property near to the said urinal, moved the learned Magistrate complaining of nuisance on account of existence and non-maintenance of urinal. Learned Magistrate in his impugned order upheld the contention and ordered demolition of the structure. Revision application filed by the petitioner failed and petition is therefore, before this Court.

3. Learned advocates appearing for the parties brought to my notice further development, that after the learned Magistrate passed its order urinal actually came to be demolished.

4. In that view of the matter, no useful purpose would now be served, examining the legal issues arising in this petition. Prima facie, I am of the view that instead of directing removal of urinal altogether which was meant for public use, perhaps the learned Judge could have considered some check and balance to ensure same being cleaned regularly. Needles to say, any

such place, if not properly cleaned and maintained, would be health hazard and consequently a nuisance also. However, in view of the subsequent development, it is not necessary to conclude on these aspects of the matter and the parties will be at liberty to raise all contentions in Civil Suit which is stated to be pending.

5. In view of these observations, the petition is disposed of. Rule is discharged.

(Akil Kureshi,J.)

(raghu)